

# EXHIBIT L

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MARK T. DUBLINO,

*Plaintiff,*

v.

**Case # 19-CV-6269-DGL**

SGT. JUSTIN BIEGAJ, SGT. ROBERT DEE,  
DEPUTY BRIAN THOMPSON, DEPUTY FRANK  
GELSTER, SGT. MR. CROSS, SGT. MR. ROBINSON,  
DEPUTY MR. P. GIARDINA, DEPUTY SHAWN WILSON,

*Defendants.*

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**PLAINTIFF'S RESPONSE TO DEFENDANTS' REQUEST TO ADMIT**

Plaintiff, by and through his *pro bono* counsel Modica Law Firm, hereby responds to Defendants' Request to Admit made pursuant to Federal Rule of Civil Procedure 36 as described below. Please also see the enclosed sworn statement prepared by Plaintiff.

**Request 1.** *The genuineness of the document attached as Exhibit A, entitled New York State Commission of Correction Inmate Grievance Form.*

**RESPONSE:** ADMIT.

**Request 2a.** *Exhibit A is a grievance written by plaintiff Mark Dublino.*

**RESPONSE:** ADMIT; however, Plaintiff clarifies that Exhibit A is the second part of a formal grievance that he started before March 9, 2018. He submitted an informal form first.

**Request 2b.** *Exhibit A was submitted to Erie County Holding Center staff on March 11, 2018 at 3:00 p.m.*

**RESPONSE:** ADMIT.

**Request 2c.** *Exhibit A concerns issues with mail and postage.*

**RESPONSE:** ADMIT.

**Request 2d.** *Exhibit A was sent from Gulf East, cell 33.*

**RESPONSE:** ADMIT.

**Request 2e.** *Gulf East, cell 33 was plaintiff Mark Dublino's cell as of March 11, 2018.*

**RESPONSE:** ADMIT.

**Request 2f.** *As of March 11, 2018, the grievance process was available to plaintiff Mark Dublino.*

**RESPONSE:** ADMIT; however, Plaintiff maintains that the grievance process was available for the issue grieved in Exhibit A only and NOT for the alleged incident that occurred on March 9, 2018.

**Request 2g.** *Plaintiff Mark Dublino did not submit any other grievances to Erie County Holding Center staff after March 9, 2018.*

**RESPONSE:** ADMIT; however, Plaintiff clarifies that this is because Erie County Holding Center staff would not give him a grievance form, pen, or paper.

Dated: August 17, 2021

**MODICA LAW FIRM**

*Pro Bono Attorneys for Plaintiff*

s/Steven V. Modica, Esq.

Steven V. Modica, Esq.

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TO: Erin E. Molisani, Esq.  
Assistant Erie County Attorney  
Attorney for Defendants  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

MARK DUBLINO; PLAINTIFF

v.

SERGEANT JUSTIN BIEGAJ; ET. AL

DEFENDANTS

PLAINTIFF'S RESPONSE TO  
REQUEST TO ADMIT PURSUANT  
FRCP 36

CASE # 19-cv-6169DGL

STATE OF NEW YORK }  
COUNTY OF ERIE } ss:

I MARK DUBLINO BEING DULY SWORN; DEPOSES AND SAYS:

REQUEST 1. CORRECT ABOUT THE GENUINENESS OF THE DOCUMENT AS EXHIBIT A

REQUEST 2a EXHIBIT A IS THE SECOND PART OF THE INFORMAL GRIEVANCE THAT WAS STARTED  
BEFORE MARCH 9th 2018. THE INFORMAL FORM WAS SUBMITTED FIRST

REQUEST 2b. IS CORRECT

REQUEST 2c. IS CORRECT

REQUEST 2d. IS CORRECT


REQUEST 2e. IS CORRECT

REQUEST 2f WAS AVAILABLE FOR THE ISSUE GRIEVED IN THE EXHIBIT A; ONLY. NOT  
FOR THE ALLEGED INCIDENT ON MARCH 9th 2018

REQUEST 2g. IS CORRECT; BECAUSE THE ERIE COUNTY HOLDING CENTER STAFF OFFICERS  
WOULD NOT PROVIDE ANY GRIEVANCE FORM OR PEN OR PAPER

UNDER 28 USCA § 1746 : I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING  
IS TRUE AND CORRECT.

AUGUST 7th 2021

..   
SIGNATURE DATED

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MARK DUBLINO,

Plaintiff,

v.

SGT. JUSTIN BIEGAJ, et al.,

Defendants.

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**CERTIFICATE OF SERVICE**

Case # 19-CV-6269-DGL

I hereby certify that on August 17, 2021, I mailed Plaintiff's Response to Defendants' Request to Admit by United States Postal Service to:

Erin E. Molisani, Esq.  
**Assistant Erie County Attorney**  
*Attorney for Defendants*  
95 Franklin Street, Room 1634  
Buffalo, NY 14202

I also emailed a courtesy copy to her on that date.

s/ Steven V. Modica

STEVEN V. MODICA, ESQ.

Modica Law Firm  
*Pro Bono Attorneys for Plaintiff*  
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[Steve@ModicaLawFirm.com](mailto:Steve@ModicaLawFirm.com)